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WE'RE PROUD

We're proud to announce that Mr. Robert O. McGee has been selected as Head, Appeals and Investigations Department at HRSC-NW. Bob has been with the HRSC-NW since "stand-up" of HRSC-NW. His federal experience includes serving as the Head of the Labor Relations Division of the Human Resources Office for the Naval Station Rota, Spain; the Head of Employee Relations Division of the Military Sealift Command, Pacific; and as the Head of the Employee Management Relations Division of the Human Resources Office at Puget Sound Naval Shipyard. He has a BA degree from Memphis State University; a Doctorate of Law from UPS School of Law.

We look forward to his leadership in the coming years.

SICK LEAVE ADMINISTRATION

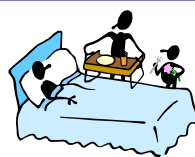
You may feel like you need a doctorate to administer sick leave these days. I don't blame you. It can be confusing to the best of us. However, it is an important facet of your role as a supervisor.

There are so many purposes for sick leave these days it's hard to keep track. Your employee can use sick leave because they're sick, have an appointment with the physician, their child is sick, their child has an appointment with the physician, or even if they're adopting a child. What I'd like to try to do is break the sick leave regulation down. I have to warn you, you might need a strong cup of coffee to stay awake!

Sick leave entitlements are listed in the next column. I'll take each one and talk about them. Some don't require a lot of explanation. I'm going to try to provide more information on italicized text.

Regulations are such fun things to work with. In this case we are dealing with regulations issued by the

Office of Personnel Management. Don't forget, however, you may have a negotiated agreement to deal with too. Who do you turn to? To your Human Resource Advisor. Don't struggle on your own. Give them a call, that's what keeps them employed.



How sick are you?

USE OF SICK LEAVE

Under current regulations [5 CFR 630.401(1)], sick leave can be used when the employee (for reference sake, I've italicized the portions we'll talk about in this newsletter):

- #1 Receives medical, dental, or optical examination or treatment;
- #2 Is incapacitated for the performance of duties by *physical or mental illness*, injury, pregnancy, or childbirth;
- #3 Provides care for a family member as a result of *physical or mental illness; injury; pregnancy; childbirth; or medical, dental, or optical examination or treatment*;
- #4 *Makes arrangements necessitated by the death of a family member or attends the funeral of a family member*;
- #5 Would, *as determined by the health authorities having jurisdiction or by a health care provider*, jeopardize the health of others by his or her presence on the job because of exposure to a *communicable disease*; or
- #6 *Must be absent from duty for purposes relating to the adoption of a child, including appointments with*

adoption agencies, social workers, and attorneys; court proceedings, required travel, and any other activities necessary to allow the adoption to proceed.

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#1 - EMPLOYEE EXAMINATION/

TREATMENT

This provision has been around "forever" and rarely needs explanation. This provision kicks in when the employee receives medical, dental or optical examinations or treatment

#2 - EMPLOYEE INCAPACITATION

In 1995 OPM changed this paragraph. In the old days the regulation used to say "sickness", and "pregnancy or childbirth." The regulations currently state "physical or mental illness" and "pregnancy and confinement."

So what? Well these changes helped clarify that an employee can be "incapacitated" without being

physically sick or confined to a bed. In the past there have been situations where "mental stress" was not considered to be covered by the regulation because the definition of being "sick" was not met. The current definition of "incapacitated" is broader in scope to include such types of illnesses. As to pregnancy, the definition was broadened to include the period of time beyond the actual birth of child. If the mother is confined either prior to or after the birth, the regulations allow the use of sick leave for that purpose.

#3 FAMILY CARE

Sick leave can be used by an employee to give care or otherwise attend to a family member having an illness, injury or other condition which, if an employee had such a condition, would justify the use of sick leave. In other words, if the family member were an employee, and their condition would justify the use of sick leave, then the employee's use of sick leave to care for that family member is justified.

What is a "family member?" A family member means the following relatives of the employee:

- (a) Spouse, and parents thereof;
- (b) Children, including adopted children, and parents thereof;
- (c) Parents;
- (d) Brothers and sisters, and spouses thereof; and
- (e) Any individual related by blood or affinity whose association with the employee is the equivalent of a family relationship.

Clear as mud, isn't it? Here's another way of thinking of it. Your employee's child has the flu. If that child were an employee, sick leave would be justified. Therefore, sick leave is justified for the employee who gives care to that child.

Another example is an employee's parent has a medical examination. If that parent were an employee, sick leave would be justified. Therefore, sick leave is justified for an employee to accompany the parent to the examining.

WARNING: The use of sick leave for this purpose is limited. See "Limit on Sick Leave" on page 4.



#4 BEREAVEMENT

Employees can use sick leave for purposes related to the death of a family member¹, to include making arrangements necessitated by the death and/or attending the funeral. For example, travel, attending memorial services, pre-funeral gatherings/ceremonies, reading of the will.

Where this can get sticky is when you deal with a situation where, because of the bereavement, the employee is incapacitated themselves. When an employee is incapacitated as a result of depression or emotional distress due to the death of a family member, they would be entitled to sick leave for their own illness (#2)

WARNING: The use of sick leave for this purpose is limited. See "Limit on Sick Leave" on page 4.

#5 - COMMUNICABLE DISEASE

An employee can use sick leave during the time health authorities or a health care provider determines the employee's exposure to a communicable disease would jeopardize the health of other employees. The key determination is whether a particular illness would jeopardize the health of other employees. If you have the authority to approve or disapprove leave, you should rely on the expertise of health authorities or a health care provider in determining whether a communicable disease would place the health of other employees in danger.

The term "health care provider" has the same meaning found in the Family and Medical Leave Act (FMLA) rules; that is:

¹ The definition of "family member" found under family care (#2) applies to bereavement.

- (a) A licensed Doctor of Medicine or Doctor of Osteopathy or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations under regulations;
- (b) Any health care provider recognized by the Federal Employees Health Benefits program or who is licensed or certified under Federal or State law to provide the service in question.
- (c) A Christian Science practitioner listed with the First Church of Christ, Scientists, in Boston, MA; or
- (d) A Native American, including an Eskimo, Aleut, and Native Hawaiian, who is recognized as a traditional healing practitioner by native traditional religious leaders who practices traditional healing methods as believed, expressed, and exercise in Indian religions of the American Indian, Eskimo, Aleut, and native Hawaiians, consistent with regulation.

Some things go without saying, but once the determination is made, an employee's exposure to a communicable disease no longer jeopardizes the health of other employees, this provision no longer applies. If the employee wants to provide care to the affected family member, the employee can request sick leave under the provisions of #3 (family care) or other appropriate leave (e.g., annual leave or leave without pay).

#6 - ADOPTION

An employee can use sick leave for purposes relating to the adoption of a child. This provision does not list all circumstances in which the use of sick leave would be appropriate because adoption procedures and requirements differ among jurisdictions and adoption agencies.

Sick leave is justified for activities necessary to allow an adoption to proceed. For example, if an adoption agency or court orders or requires adoptive parent(s) to take a specific period of time off to bond with the child, sick leave can be granted. However, sick leave is not justified if the

adoptive parent(s) wish, on their own, to remain at home to bond with the child.

It is important to note that the activities necessary to allow the placement of a child with an employee for foster care are not included under this provision. However, an employee may be eligible for annual leave or leave without pay for this purpose under the Family Medical Leave Act. Employees cannot use sick leave for such purposes.



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www.bangor.navy.mil/subase/hro/general/index.html

LIMIT ON THE AMOUNT OF SICK LEAVE USED

There is a limit on the amount of sick leave an employee can use for family care (#3) and bereavement (#4) each leave year.

The basic limit for full-time employees is 40 hours. An additional 64 hours can be used if use of that leave does not cause the amount of sick leave to the employee's credit to fall below 80 hours.

If you think it's confusing for a full-time employee, let's tackle the part-timer and an employee with an uncommon tour of duty. The basic limit for a part-time employee or an employee with an uncommon tour of duty is equal to the average number of hours of work in the employee's scheduled tour of duty each week ('betcha you can't say that fast 10 times!). Additional sick leave, up to the amount accrued during a leave year, can be used if the use of that leave does not cause the amount of sick leave to the employee's credit to fall below twice the basic limit amount. Here's an example: A part time employee on a 20-hour weekly tour earns 52 hours of sick leave in a leave year. The employee's basic limit is 20 hours (the average number of hours of work in the employee's scheduled tour of duty each week).

The minimum balance must exist after deducting the amount that will be used for family care or bereavement. Still confused? Here's another example: An employee with a sick leave balance of 115 hours uses 40 hours of sick leave for family care. After accruing 16 hours of sick leave (if you're keeping up with the math the balance is now 91 hours), the employee requests 32 hours of sick leave for bereavement. This request cannot be approved because the 32 hours would reduce the balance to less than 80 hours ($91 - 32 = 59$). At this point the employee would only be eligible to use 11 hours of sick leave ($91 - 11 = 80$). An employee may be eligible for annual leave or leave without pay for the remaining time.

Limits are based on an employee's current tour and require recalculation if the tour of duty changes during the leave year. At no time may an employee use more than the amount of sick leave accrued in a leave year.

Sick leave used for family care (#3) or bereavement (#4) under the Family Medical Leave Act (FMLA) (see page 2) or leave transfer rules (see page 5) counts when determining the amount of leave used in a leave year.

There are no similar limits on the amount of sick leave an employee can use for examination or treatment (#1), incapacitation (#2), communicable disease (#5), or adoption (#6).

REQUESTING AND GRANTING

SICK LEAVE

An employee's responsibility to follow established procedures for requesting sick leave hasn't changed much over the years, nor is there any change in a leave approving official's responsibility to ensure that sick leave is used only for the reasons outlined by regulation.

An employee must still request advance approval of sick leave for the purposes of receiving medical, dental, or optical examination or treatment (#1). To the extent possible, an

employee must request advance approval for sick leave for family care (#3) bereavement (#4), and adoption (#6).

Reminder: The procedure for requesting and approving sick leave is covered within many Negotiated Agreements and activity specific leave instructions. Refer to those for specifics.

SUPPORTING EVIDENCE

When it is considered necessary and appropriate, leave approving officials may require evidence to support use of sick leave. It doesn't matter why the sick leave was taken. Such evidence must be administratively acceptable.

Evidence requirements for family care (#3) can be the same applied when an employee is incapacitated (#2). For example, if an employee is not required to provide medical documentation when absent for three days or less, medical documentation would not normally be provided when the employee is on sick leave for three days or less to care for a family member.

ADVANCE SICK LEAVE

Officials with authority to advance sick leave have discretion to grant or deny such requests. In the past, these requests may have involved cases where the employee had a serious disability or illness. However, when required by the situation, advance sick leave may also be granted for family care (#3), bereavement (#4), or adoption (#6).

Sick leave advanced for family care or bereavement should not exceed the amount of leave the employee can use for these purposes. For example, there would be no reason to advance sick leave for family care or bereavement if the employee had already used the leave year maximum (e.g., 40 or 104 hours).

An employee's request for family care (#3) or bereavement (#4) does not negate the minimum 80 hours balance requirement for usage exceeding 40 hours, as previously discussed. For example, an

employee who has used the basic limit of 40 hours, has an 8-hour sick leave balance remaining. The employee wants to use the 8 hours plus 32 hours of advance sick leave for family care. There would be no reason to advance the 32 hours because an employee can exceed the basic limit only if the use of the additional leave does not cause the amount of sick leave to the employee's credit to fall below 80 hours. This employee only has 8 hours to his/her credit. The employee needs an advance of 112 hours before he/she could use the accrued 8 hours and the 32 hours of advance ($112 + 8 = 120$ and $120 - 40 = 80$).

LEAVE TRANSFER PROGRAM

An employee becomes a leave transfer recipient when the use of the leave covers examination (#1), incapacitation (#2), family member (#3), and communicable disease (#5). When it is used to care for a family member, it must be counted as "available paid leave" when determining an employee's eligibility to become a leave recipient for a family member's medical emergency. Once approved as a leave recipient, the employee must use available sick leave before using donated leave.

For example, an employee applies to become a leave recipient (his parent has a serious heart attack and requires the employee's care). The anticipated length of absence is 4 weeks (160 hours). The employee's leave balances stand at 48 hours of sick and 58 hours of annual leave with no sick leave used for family care (#3) or bereavement (#4) during the leave year. To determine eligibility, add the 40 hours of sick leave and the 58 hours of annual leave (the remaining 8 hours of sick leave is not available for use because the employee does not meet the minimum balance requirements). The employee has 98 hours ($48 + 58 = 98$) of available paid leave. Since the medical emergency can be expected to result in at least 24 hours of unpaid leave ($160 - 98 = 62$), the employee can be approved as a leave recipient. Before using

donated leave, the employee must exhaust the 40 hours of sick leave and 58 hours of annual leave.

IMPACT ON THE FAMILY MEDICAL LEAVE ACT

Sick leave entitlement is in addition to the entitlement that most employees have under the Family Medical Leave Act (FMLA). In the regulation, an employee is entitled to a total of 12 administrative workweeks of unpaid leave during any 12-month period for one or more of the following reasons:

- (a) The birth of a son or daughter of the employee and the care of such son or daughter;
- (b) The placement of a son or daughter with the employee for adoption or foster care;
- (c) The care of a spouse, son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition; or
- (d) A serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.

An employee may elect to substitute annual or sick leave for unpaid FMLA leave, consistent with current law and regulation governing the granting and use of annual and sick leave. This means an employee may elect to substitute sick leave for unpaid FMLA leave, consistent with the regulations currently in place for sick leave. For example: An employee used 80 hours of sick leave for adoption-related activities (#6) and has a sick leave balance of 200 hours. The adoption process is complete and the employee requests 160 hours of annual leave to remain at home to bond with the child. The employee's leave request is denied due to workload requirements. The employee invokes FMLA rights and elects to substitute sick leave for unpaid FMLA leave

(LWOP). The sick leave request cannot be honored (a period of bonding at the employee's choosing is not an activity that is necessary for the adoption to proceed). The employee then elects to substitute annual leave, which is appropriate. During this bonding period, the adopted child becomes ill requiring care for 10 days (80 hours). The employee qualifies to use sick leave for the 80 hours of family care (#3) because the minimum balance needed to use more than the basic 40 hours ($200 - 80 = 120$) exists and the 104 hours maximum has not been used. NOTE: The 80 hours of sick leave used originally for adoption-related activities (#6) does not count against the 104 hour maximum.

As far as evidence, an employee is required to provide administratively acceptable evidence to support requests for this type of leave.

TRAINING OPPORTUNITIES		
Date	Class	Location
4-7 June	Supervisor's Role in HR Management	HRSC
19-20 June	Supervisors Conference 2001	Subase
9-12 July	Introduction to Supervision	HRSC
If interested, contact Code 30 at HRSC at 315-8145. A complete list of training offered by HRSC can be found at www.donhr.navy.mil/Training/index.htm		

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